

**MINUTES OF THE
JOINT CAPITAL FACILITIES & ADMINISTRATIVE SERVICES
APPROPRIATIONS SUBCOMMITTEE
WEDNESDAY, FEBRUARY 4, 2004, 2:00 P.M.
Room 403, State Capitol Building**

Members Present:

Sen. Beverly Evans, Committee Co-Chair
Rep. Loraine T. Pace, Committee Co-Chair
Sen. Greg Bell
Sen. Mike Dmitrich
Rep. Roger Barrus
Rep. Ralph Becker
Rep. DeMar "Bud" Bowman
Rep. D. Gregg Buxton
Rep. David Clark
Rep. Stephen Clark
Rep. Wayne Harper
Rep. Brent H. Goodfellow

Staff Present:

Kevin Walthers, Fiscal Analyst
Bonnie Brinton, Committee Secretary

Public Speakers Present:

Keith Stepan, Director, DFCM
Larry Jardine, Building Board Chairman
Ken Nye, Deputy Director, DFCM
Bruce Whittington, Program Director, DFCM
Camille Anthony, Executive Director, DAS
David Lamb, Deputy Director, DAS
Richard E. Kendall, Commissioner, Utah System of Higher
Education
Donald L. Porter, Vice President, Business Service, SLCC
Judd Morgan, President, SLCC
Cary Jones, Attorney - Snell & Wilmer, SLCC
Frank McEntire, Director, Utah Arts Council
Jim Glenn, Coordinator of Public Art, Utah Arts Council
Lee Udall Bennion, Utah Arts Council Board Member
Doug Richins, Director, DAS - Purchasing
Gwen Anderson, Director, DAS - Debt Service
Alan Edwards, Manager, DAS - Risk Management
Steve Saltzgiver, Director, DAS - Fleet Operations
Gary Robertson, Finance Manager, DAS - Fleet Operations

A list of visitors and a copy of handouts are filed with the committee minutes.

Co-Chair Pace called the meeting to order at 2:10 p.m.

1. Building Board

Co-Chair Pace introduced Keith Stepan, Director, DFCM, and presented a short biographical sketch of him.

Mr. Stepan introduced Larry Jardine, Chairman of the Building Board, and the members of the Building Board. He introduced the issues the Building Board have considered and turned the time to Larry Jardine.

Mr. Jardine presented the Five-Year Building Program for State Agencies and Institutions. He referred to the list of State-funded capital development requests and stated that the projects for FY 2005 and FY 2006 were heard in detail by the Building Board and are listed in the order of the Board's recommended priority. The projects listed for the next three years are grouped by the proposed funding year and are not prioritized within the funding year.

The report also stated that the Building Board expresses its support for the continuation of the renovation of the State Capitol Building and suggests that the funding be addressed separately as a result of the magnitude and duration of the project and the Capitol's unique governance structure.

The Chairman referred to the Executive Summary - Facilities Condition Assessment Program. This report demonstrates the on-going needs of all state agencies and institutions projected over the next five years and describes briefly the current conditions of the facilities owned and leased by the State of Utah which are estimated to be valued at approximately \$4.2 billion.

This Facilities Condition Assessment Program report identified \$199 million in "immediate" repairs to buildings and infrastructure. Mr. Stepan stated that this amount should not be considered in a lump sum but on a separate issue-by-issue basis.

Mr. Jardine referred to State-funded project summaries and projects from other funding sources. He commended Mr. Stepan and his staff for the excellent materials and accuracy with which these reports are prepared. Mr. Jardine stated that the Board recommends retaining the Value Based Procurement System with regard to contractors, architects and engineers. He also stated that the Board approved the changes in the System that were recommended.

Responding to questions from Subcommittee members, Mr. Jardine stated that the three Multi-Agency proposals at the top of the priority list represents savings to the State.

Rep. Becker expressed appreciation to the Building Board members for their excellent work.

MOTION: Rep. D. Clark moved to approve the minutes from the meetings on January 26 and 28 and February 2.

The motion passed unanimously.

DFCM Administration

Co-Chair Pace introduced Ken Nye, Deputy Director, DFCM, and presented a short biographical sketch of him.

Mr. Kevin Walthers, Fiscal Analyst, presented the budget for the Division of Facilities Construction and Management - Administration. He stated that during the 2002 General Session the Legislature shifted funding sources for DFCM from General Fund to Project Reserve Fund and Contingency Fund. These two new funding sources are traditionally used to ensure projects are completed successfully and excess balances have been used to fund all or part of projects in past years. Balances accrue in these funds only when projects come in under budget or when bids are lower than expected.

Mr. Walthers further stated that current balances within the two funds should be sufficient to cover FY 2005 without jeopardizing projects. Discussions with DFCM indicate that Dedicated Credits, listed at \$487,000, along with Project Reserve and Contingency Reserve money, could be used to fund FY 2004 Administration.

The use of "non-state" funds allows the Legislature more flexibility by freeing up \$2.8 million in ongoing General Fund in both the current and upcoming budget year.

Mr. Stepan acknowledged that these funds could be used to fund FY 2004 Administration, but he feels that the Division will not have these reserves next year and will need funding for FY 2005.

Mr. Stepan referred to a Five-Year Performance History 1998 - 2003, which was distributed to Subcommittee members, and provided information on funding and FTE's for the Division. He pointed out the DFCM Four Classroom Buildings Project as a major project success in 2002-2003.

Co-Chair Pace commended Mr. Stepan on this good report card.

Rep. S. Clark expressed appreciation to Mr. Stepan and Mr. Nye for the Division's good solid procurement policy. He recognized that they operate on contingency money with the

projects they have and stated his belief that they should be on a solid budget basis. He also recognized that they manage very well with a limited number of employees.

Mr. Walthers stated that funding will be adequate for this year for this division, and that he would also prefer to have them on a solid budget.

MOTION: Rep. S. Clark moved to place \$2.5 million of General Fund for DFCM operations for FY 2005 on the Subcommittee's priority list for the Executive Appropriations Committee.

SUBSTITUTE MOTION: Rep. D. Clark moved to place \$2.5 million of General Fund for DFCM operations for FY 2005 on the Subcommittee's priority list for the Executive Appropriations Committee and write clarifying language which would shift money if awarded.

The substitute motion passed unanimously.

The Analyst discussed the funding formula for capital improvement, which includes alterations, repairs and improvements, and which must be funded before any new capital development project can be approved. During the 2001 General Session the Legislature increased the minimum funding formula from 0.9 percent to 1.1 percent of the value of all state buildings. The plan to increase funding included a transfer of existing funds within the capital budget. As revenue projections went unmet in FY 2002 and FY 2003, the Legislature amended statute to allow for more flexibility in the capital improvement program. The change allowed the Legislature to increase flexibility by funding at the original 0.9 percent level. If funding continues at 0.9 percent, the Analyst believes that the Legislature should consider permanently returning to the 0.9 percent level.

The Analyst recommendation assumes funding at the 0.9 percent level in FY 2005 and sets the Capital improvement program at \$43,976,900 instead of the 1.1 percent level of \$53,750,000.

MOTION: Rep. S. Clark moved to approve the budget for the Division of Facilities Construction and Management Administration in the amount of \$3,854,900.

The motion passed unanimously.

DFCM Facilities Management

Mr. Walthers stated that when the Internal Service Fund program within DFCM is managed properly, the private sector cannot compete with the Division on pricing in getting

maintenance contracts.

The Analyst referred to intent language regarding FTE counts, which states that DFCM's internal service fund may add FTEs beyond the authorized level if new facilities come on line or maintenance agreement are requested. He also referred to rate adjustment and comparison charts and stated that DFCM maintenance rates are less than half of that paid by the federal government and are lower than national private and local private rates. He noted that in FY 2005 DFCM projected rates will be lower than the private sector and the federal government.

Co-Chair Pace introduced Bruce Whittington, Program Director, DFCM, and presented a short biographical sketch of him.

Mr. Whittington presented an overview of DFCM Facilities Management. He stated that the Internal Service Fund program within DFCM is responsible for 139 separate programs. This program is requesting a rate change in FY 2005 in ten programs. The total of these rate adjustment is \$117,000.

Director Whittington stated that DFCM is requesting capital outlay authorization for a purchase of six replacement snow brushes and a replacement quad-runner. The Analyst supports this request. Mr. Whittingham responded to questions from Subcommittee members regarding summer grounds employees.

MOTION: Rep. Goodfellow moved to approve the budget for DFCM Facilities Management in the amount of \$19,811,700 with 121 FTEs and \$70,500 in authorized capital outlay.

The motion passed unanimously

MOTION: Sen. Bell moved to approve the following intent language:

It is the intent of the Legislature that DFCM's internal service fund may add FTEs beyond the authorized level if new facilities come on line or maintenance agreements are requested. Any added FTEs will be reviewed and approved by the Legislature in the next Legislative Session.

The motion passed unanimously.

SLCC Metro Center

Co-Chair Pace stated that this matter is an informational item and that it will be discussed

more next week.

The Analyst explained the situation with the Center. He stated that in 2001 SLCC entered into a lease for 38,000 square feet of classroom and meeting space downtown. During the course of the lease SLCC encountered difficulties with the property, including serious life-safety issues. At the same time the developer filed for bankruptcy protection and the building is now owned by the court trustee.

Since the primary creditor on the bankruptcy is the building contractor, the contractor made repairs to the building and made it available for occupancy again. Therefore, SLCC is required to complete the lease as signed.

At this point it seems that there is no way for the college to terminate the lease without a significant cost to the State. The State is left with three options:

1. Continue to lease to the end of the term.
2. Purchase the facility using a loan from the RDA that will be replaced by a Regent's Bond in two or three years.
3. Purchase the facility using a Building Ownership Authority Bond that will be funded by the college.

Mr. Walthers informed Subcommittee members that the College's current plan is to borrow funds from the Salt Lake City RDA. The loan would be amortized over ten years but would have a balloon payment at the end of the second or third year. The College would then return to the Legislature to request permission to issue a Regent's Revenue Bond funded by student fees at the Metro Center.

The Analyst stated his belief that this is a risky proposition given that the revenue stream is dependent on student enrollments downtown. He believes a more cost effective method would be for the State Building Ownership Authority to purchase the building and lease it to SLCC. This would place the State in charge of the facility in the future, allowing more flexibility should the demand for downtown education programs fail to materialize.

Commissioner Richard E. Kendall, Utah System of Higher Education, presented an overview of the issues. He introduced Donald L. Porter, Vice President of Business Service at SLCC, who distributed a letter describing the issues involved and a spreadsheet demonstrating the financial reasoning behind the school's goals of purchasing the Metro Learning Center building.

President Judd Morgan, SLCC, stated that he supports the goal of purchasing the Metro Learning Center and feels that the mission of the College to serve a diverse population makes

this location appropriate. He stated that he feels the difficulties with the building can be rectified, and that the building fits the master plan for SLCC.

President Morgan further stated that the school administration is not asking for money but simply making the Subcommittee aware of their plans. He is concerned that the proposals with the Metro Learning Center doesn't create problems with funding for the new Health Science Building for SLCC.

Cary Jones, Attorney, Snell & Wilmer, clarified information for the Subcommittee regarding the legal implications involving the Center.

Co-Chair Pace thanked the gentlemen from SLCC for their presentation.

Utah Arts Council

Frank McEntire, Director, Utah Arts Council, provided information and background on the Utah Arts Council. He introduced Jim Glenn, Coordinator of Public Art, and Lee Udall Bennion, Utah Arts Council Board Member.

Mr. Glenn distributed handouts regarding the Utah Public Art Program. He informed Subcommittee members that Utah's Percent-for-Art Act makes it possible for 1% of hard construction costs for new or remodel capital projects to be added to the budget for the commissioning or acquisition of "site-specific" art for the facility.

Mr. Glenn stated that since the inception of the program, well over 200 works of art have been created and installed in State facilities from St. George to Logan. The Legislature created a conservation and maintenance fund to insure the investment of art retains and even increases in value. Fifteen percent of every new project budget is deposited into this non-lapsing fund for care of the entire collection which is now at \$243,643.

The Coordinator brought two pieces of art for display.

Rep. D. Clark expressed appreciation for the beauty which this art adds to the local facilities.

Rep. Becker stated that last year this 1% of the construction budget that is to go to the Utah Public Arts Program was overlooked. The decision of whether to fund this item is up to the Legislature, and Rep. Becker asked the Chairs to consider including this amount as each building is discussed.

Co-Chair Evans stated her appreciation to the Program coordinator for allowing input

from local artists and making the art pieces related to local culture.

2. General Services - Internal Service Fund Operating Budgets

The Analyst presented the budget for DAS - General Services - Internal Service Funds which includes administration, purchasing, publishing and mail. He stated that the administration program is set up to account for indirect costs in delivering the services of the other three central services programs. The programs are billed in proportion to their share of the total division budget. The Analyst anticipates that administrative costs as a percentage of total expenditure will fall below two percent in FY 2005.

Mr. Walthers recommends approval of \$570,000 in capital outlay in State mail for FY 2005 to purchase equipment. The recommendation does not include the carry forward of prior authorizations. The Analyst also stated that his capital outlay recommendation for publishing for FY 2005 totals \$2,246,000 for new copiers, replacement copiers and a speed punch.

Co-Chair Pace introduced Doug Richins, Director, DAS - Purchasing, and presented a short biographical sketch of him.

Mr. Richins clarified a question about a State contract price being higher than the price offered to the public that was discussed in a prior meeting. He found that the information was not comparing similar items. He stated that the general services that are provided by his Division are important but are behind the scenes and people are not generally aware of what takes place in General Services.

Mr. Richins discussed the State Mail Services and stated that it is one of the most centralized state mail operations in the nation. Because of the services it provides, it minimizes costs to state agencies.

Director Richins further stated that \$1,755,400 in Retained Earnings for all of General Services is projected for FY2005. This represents 12% of annual revenue and is an appropriate rate.

MOTION: Rep. Goodfellow moved to approve the budget for ISF - General Services in the amount of \$14,589,100, 64 FTEs and \$2,816,000 authorized capital outlay.

The motion passed unanimously with Sen. Dmitrich and Rep. S. Clark absent at the time of voting.

State Debt Collection

Mr. Walthers presented an overview of this budget.

Co-Chair Pace introduced Gwen Anderson, Director, DAS - Debt Service, and presented a short biographical sketch of her.

Ms. Anderson reported that the program contracts with private vendors to assist in collection of outstanding debt. Revenue is generated for the program by assessing an administrative fee against each collection. No tax funds are appropriated to this program. She also reported that this program continues to collect more than is expended and is passing the savings on to the debtors by dropping fees.

Rep. Becker asked what happens to the profit from this program. Mr. Walthers responded that this profit goes to the General Fund or to Retained Earnings. He stated that in FY 2003 the Legislature took a one-time reduction of OSDC retained earnings to fund budget shortfalls in the amount of \$400,000.

MOTION: Rep. Bowman moved to accept the budget for State Debt Collection in the amount of \$395,400 with 5 FTEs.

The motion passed unanimously with Sen. Dmitrich and Reps. S. Clark, Goodfellow and Harper absent at the time of voting.

Risk Management

Mr. Walthers gave an overview of this Division. He discussed State agency premium increases and stated that he is recommending approval of rate increases totaling \$424,000 for all state agencies, including non-state funds.

In addition, the Analyst recommends that the Capital Facilities and Administrative Services Appropriation Subcommittee request that the Executive Appropriation Committee apply excess retained earnings in the Risk Management program to the one-time cost of upgrading the statewide financial system (FINET).

Regarding Workers Compensation, the Analyst stated that the State Risk Manager administers a program to keep workers compensation claims to a minimum and to pay negotiated premiums to the Workers Compensation Fund of Utah.

Co-Chair Pace introduced Alan Edwards, Director, DAS, Risk Management, and presented a short biographical sketch of him.

Mr. Edwards stated that on January 15, 2004, the State Auditor released a management

report identifying an excess of retained earnings in the Risk Management program (excluding Workers' Compensation). The DAS proposed a three-year plan to come into compliance with acceptable retained earnings.

The Analyst believes that retained earnings in these Risk Management programs could be reduced by \$3.7 million without adverse impact to the program or to state agencies. The \$3.7 million includes amounts that would have to be repaid to the federal government.

Mr. Edwards pointed out that the economic downturn over the past two years negatively impacted the Workers' Compensation program, resulting in operating losses totaling \$1.7 million in FY 2002 and 2003. The Rate Committee approved new rates for the program to return to financial stability. If approved by the Legislature, rates for State agencies (except UDOT) will climb from 0.68 % of payroll to 0.82%. UDOT rates, if approved, will increase from 1.59% to 1.91%. Overall the increase in rates total \$968,400. Of that amount, approximately 70% will be funded from either General Fund, School Funds or Transportation Funds.

Rep. Pace asked what constitutes the greatest risk. Mr. Edwards responded that the issues of greatest risk would be facilities, automobiles, and personnel.

MOTION: Rep. Becker moved to accept the Risk Management budget of \$36,948,300 with 25 FTEs and \$120,000 authorized capital outlay.

The motion passed unanimously with Sen. Dmitrich and Reps. S. Clark, Goodfellow and Harper absent at the time of voting.

Division of Fleet Operations

Mr. Walthers gave an overview of the Fleet Operations division.

The Analyst discussed the confirmation of vehicle counts and said he felt it was a good idea to have that accountability for future analysis or audit functions. He also reported on the alternative fuel vehicles. The Division is required by federal law to operate alternative fuel vehicles. The law mandates that 75% of all new vehicles purchased by the State must be able to operate on a fuel other than gasoline. Flex Fuel Vehicles offer the State the best price and the most functionality in meeting federal AFV requirements. Bi-Fuel vehicles carry no residual value for the State; in fact, the State loses residual value when it sells a CNG vehicle. He noted that the bi-fuel and CNG-dedicated vehicles lose as much as 80% of trunk space due to the addition of the extra fuel tank.

For FY 2005, the Analyst supports the Division request for authority to purchase replacement

vehicles in an amount not to exceed \$13,695,200 and recommends lapsing \$5,144,600 in unused authorization in FY 2004.

Mr. Walthers discussed the DFO report cards. He believes the Legislature should reinforce to state agencies and institutions the critical need to comply with the fleet program. The State fleet value exceeds \$50 million. Failure to properly manage this program will result in significant hidden costs to the State.

Regarding federal surplus property, the Analyst reported that rates charged to agencies acquiring surplus property since 1998 failed to recover sufficient amounts to cover operating expenses. As a result, the Analyst believes that the program should be shut down by the end of FY 2004 and any remaining retained earnings deficits should be absorbed by the Division of Fleet Operations.

The Analyst concluded with a report on fleet capitalization and stated that during the three years that the Legislature subsidized agency lease rates, the Division established more accurate rates that reflect the true cost of operating a vehicle. Additionally, the Legislature required any fleet expansion to include not only legislative approval, but also capitalization funds in advance. By doing this, the Division not only abated growth in General Fund debt, but it actually reversed the trend of continually rising debt.

Co-Chair Pace introduced Steve Saltzgiver, Director, DAS - Fleet Operations, and presented a short biographical sketch of him.

Mr. Saltzgiver stated that for the fourth straight year, costs are down. He reported that the Division is in compliance with the federal mandate to implement programs to encourage CNG use; however, it still accounts for only 1.37% of consumption in state vehicles. He stated that there are four or five stations with CNG fuel, but are most often only refilled with gasoline due to the inconvenience of using the CNG dispenser.

The Director agreed with the Analyst's assessment of the DFO report cards and stated that the agencies are doing well. He also agreed that the confirmation of vehicle counts allows the Division better planning.

Mr. Saltzgiver distributed a handout regarding the Federal Surplus Program. He stated that in the past few years, the Federal General Services Administration implemented several changes that have negatively affected the quality and quantity of federal property available for surplus. These changes have drastically reduced federal surplus revenues. The Division has implemented several initiatives to reduce expenditures to compensate for the reduction in revenues. He concluded that in the future, the Division plans to acquire federal property only as it is requested from state or local entities.

The Director's recommendations in the matter of federal surplus is to keep the program but with the current lean structure, eliminate the current inventory of federal property in possession, and further reduce the FTEs assigned to the program. The Division will start vacating the remaining federal property space in the Surplus building and will explore options for its use, including subleasing to an outside agency.

Finally, the Division will still keep separate books to track costs for financial reporting purposes and recommends that the federal and state surplus programs be combined into one surplus property program in the future.

Co-Chair Pace introduced Gary Robertson, Finance Manager, DAS - Fleet Operations, and presented a short biographical sketch of him.

Mr. Robertson stated that he feels the information given by Mr. Saltzgiver on the federal surplus program shows a viable plan. He stated that the method of acquiring federal property only as it is requested from state or local entities is a good system and will subsidize county budgets. He also pointed out the downward trend in General Fund debt.

The Analyst concluded this matter by stating the Division must keep someone to perform compliance and provide equipment to counties when requested.

Rep. D. Clark commended Mr. Satzgiver for his excellent work with Fleet Operations.

MOTION: Rep. Bowman moved to approve the Division of Fleet Operations budget in the amount of \$38,082,100 with 45 FTEs and \$13,870,000 in authorized capital outlay.

The motion passed unanimously with Sen. Dmitrich and Reps. S. Clark, Goodfellow and Harper absent at the time of voting.

MOTION: Rep. Buxton moved to adjourn the meeting.

The motion passed unanimously with Sen. Dmitrich and Reps. S. Clark, Goodfellow and Harper absent at the time of voting.

The meeting was adjourned at 5:00 p.m. by Co-Chair Pace.

The minutes were reported by Bonnie Brinton.

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Sen. Beverly Evans
Committee Co-Chair

Rep. Loraine T. Pace
Committee Co-Chair